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C O N F I D E N T I A L SECTION 01 OF 03 ANKARA 005436

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E.O. 12958: DECL: 09/11/2021

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SUBJECT: TURKEY-CYPRUS-EU - EUR DAS BRYZA'S MEETING WITH
TURKISH D/US APAKAN

Classified By: Ambassador Ross Wilson, Reasons 1.4 (b), (d)

1. (C) Summary: In a 75-minute meeting with EUR DAS Matt Bryza September 11, Turkish MFA D/US (U/S equivalent) and GOT Cyprus pointman Ertugrul Apakan animatedly described the latest state of play from Ankara's point of view. Apakan stressed Turkey's preference for a comprehensive, UN-based settlement, explained its discomfort with "mini-packages", but stressed that the Turks are studying closely the recent Finnish proposal and "aren't saying no." Apakan and Bryza discussed the possibility of exploring legal challenges to the European Court's 1995 decision against issuing EU certificates of origin for Turkish Cypriot-produced goods as a way to open up trade to northern Cyprus. According to Apakan, Turkish Cypriot leader Talat is prepared to start technical talks immediately, without a leaders' meeting as a prerequisite. End summary.

2. (C) Apakan focused on Turkey's and Talat's preference for a comprehensive settlement. Rumors we hear about Turkey intervening with Talat to rein in the Turkish Cypriots "are not true," he stated. Talat is well aware of GOT views but is in charge of his own negotiations; Apakan said he talks with the Turkish Cypriot leader only at critical junctures. Right now, both Turkey and Talat want talks to start without a prior meeting between Talat and Papadopoulos, which the GOT views as key to preventing the derailment of Turkey's EU membership ambitions. It is easier to work within the context of an overall settlement, which allows for trade-offs -- security for the TCs, for example, and property for the GCs -- than with small packages. Apakan referenced the Annan Plan and the way in which friends of the UNSYG had contributed a balance of issues, all of which fit symmetrically into the general matrix.

3. (C) Papadopoulos, Apakan stated, says the time is not ripe to re-engage on comprehensive settlement issues; for Turkey and the TCs, each and every time is ripe. There should be a leaders' meetings to set a framework, and ensure that both technical committee meetings and substantive working group meetings follow a specific timeline. In July, the GOT had encouraged both Gambari and Talat. In the interim, all that had emerged were papers. Talat and Papadopoulos simply need to announce a start and reiterate that the ultimate objective is a comprehensive settlement. The process gains legitimacy through gaining the imprimatur of the two leaders. Talat remains Papadopoulos' appropriate counterpart.

4. (C) Apakan made it clear that Turkey has its eye on the EU progress report which is slated to come out October 24 but may slip. In that regard, they are looking hard at the Finnish proposal, which contains some elements that would not make the Turks happy. Apakan stressed, however, that Ankara would not say no, would study it, view at it as a point of departure, and would be willing to discuss the details. He

reiterated the importance of direct trade, opening Ercan airport -- even for charter flights, which would help the tourist industry -- and ending the isolation of the TCs. So far they had seen nothing on paper; the ideas had been delivered orally. He noted Ankara's difficulty in deviating from its focus on a comprehensive settlement. The challenge of mini-packages, he explained, is that they usually do not provide enough room for maneuver for substitutions and balances.

15. (C) Examining the run-up to the Republic of Cyprus' May 2004 EU accession, Apakan focused on legal obligations he believed the GoC had undertaken. Under the Treaty of Accession, the GOC had a responsibility to work toward a comprehensive settlement once it became an EU member. This was, he stated, also referred to in December 2002 EU Summit conclusions. He cited Protocol 10 to the effect that the entrance of the GC side into the EU would not damage the TC side, and maintained the GCs had undertaken obligations not to create discrimination against the TCs in terms of economic development. The spirit of the statements was clear, Apakan stated.

16. (C) Protocol 10 has been forgotten, Apakan lamented. Protocol 3, which the UK Government concluded, states that the Treaty of Establishment prevails: Greece, Turkey, the UK and the two sides on the island gave birth to the RoC. As a result, any settlement that replaces the 1960 "birth" should emanate from those five parties. Bryza noted that in the most recent UNSC UNFICYP renewal debate, the Greeks had attempted to change the language from "sides" to "communities". The USG would not agree to that because it would undermine the Treaty of Guarantee, the second of three founding treaties (the third is the Treaty of Alliance). Bryza recounted how he told the Greek Ambassador to the

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United States that if Nicosia or Athens wished to renegotiate or nullify the Treaty of Guarantee, they should say so and pursue this goal through direct negotiations.

17. (C) apadopoulos, Bryza noted, is an exacting contracts lawyer. He agreed that the GC President's legalistic arguments run counter to the spirit of the documents. Bryza also focused on the 1995 decision to suspend the issuance of certificates of origin. (Note: Cyprus DDG Bilman later told us that, since the 2004 referendum, the EU accepts documents issued by the Turkish Cypriot Chamber of Commerce. End note.) Apakan added that the 1995 decision did not speak to the embargo -- it focused solely on the stamp on the certificate of origin and phyto-sanitary document. Nothing in the RoC's EU accession should empower them to enhance their power over the TCs, Apakan concluded. That was the purpose of Protocol 10.

18. (C) Bryza explained that during his meeting with D/UNSYG Gambari the previous week, Gambari had reiterated that the main goal was a comprehensive settlement. That meshed with USG policy. Gambari had requested that Talat be encouraged to proceed with technical talks (or simultaneously with substantive talks) even before a meeting between the island's two leaders, because Gambari believed he could convince UNSYG Annan to appoint a new DeSoto if/when technical talks are ongoing. A USG goal, Bryza continued, was to get some comprehensive process moving now to help give Turkey some cover in October with the EU.

19. (C) Apakan responded that there was no need to encourage Talat, who remains intent on moving ahead. The GCs say that the technical talks must proceed concurrently with the substantive working groups and that everything should be studied indefinitely. According to Apakan, Papadopoulos' list was organized not according to any UN principles, but more in line with EU harmonization. To his knowledge, an initial meeting between Talat and Papadopoulos was not a precondition to starting other talks. Talat merely says that

it would be preferable, but not necessary, to have a leaders' meeting first. Bryza said he would take that message back to Gambari to try to bridge the communications gap.

¶10. (C) Bryza explained that he had been examining legal angles, and believed there were arguments to be made in a European court to the effect that no binding legal decision states that shipping to Famagusta port is illegal. Apakan interjected that all embargoes date from 1963-64 and constituted a unilateral action by the GCs; there was no EU or UN decision. UNSCRs 540 and 541 refer to the recognition issue but not to an embargo. Apakan added that, as the GOT had been assured repeatedly by a number of EU governments in the attempt to get Turkey to open its ports and airports to the GOC, lifting the embargo would not constitute recognition. "We're not focused on getting the "TRNC" recognition," Apakan stated, "We're seeking a settlement."

¶11. (C) Adding two additional points, Apakan professed innocence with respect to Talat's presentation of the winner's cup at the Istanbul Formula One race. Neither the GOT nor Talat knew in advance, he claimed. It was not an attempt to gain political benefit. On Lebanon and UNIFIL, Apakan made the point that Turkey did not want to see the RoC gain political or legal bonuses as a forward mounting base for UNIFIL. Turkey understood UNFICYP would play a support role, but wanted to ensure that this was not exploited.

¶12. (C) On the Finnish package, Bryza made clear the United States was trying to assist the EU effort. Everyone knows Famagusta-Varosha will re-surface, despite the Turkish side having rejected the proposal in 2004. We recognize that for Turkey, an eventual Varosha handover to the GCs must be part of a final settlement. We would support the Finnish effort not by offering alternative packages, but by trying to think of a small number of additional elements that might plus the package up sufficiently to make it acceptable to all sides. We know Ercan is important to the TCs; property is important to the GCs. One possibility would be to consider a form of moratorium on development of certain properties in the north. Apakan cautioned that the TCs would view a property "moratorium" as an additional embargo, then noted that perhaps something could be arranged with the new property adjudication regime in the north: during the period when cases are under Commission scrutiny, nothing can happen to them. Bryza proposed exploring with the Finns later this month the possibility of add-ons if their current package proves too small and gets stuck, as Bryza suspects will be the case. Apakan agreed. "We can't commit to a package," Apakan stated, "We don't have the authority, but we want and need to be positive." He added that "in some ways, your

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mini-package relects the Turkish approach better than our current official position" but concluded that at this stage of negotiations, Turkey would first focus on studying the Finnish proposal.

¶13. (C) Apakan phoned us the following day to propose that, if Bryza will be in New York during UNGA, that they continue their discussions there.

¶14. (U) DAS Bryza has cleared this message.

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